

House BILL NO. 304

INTRODUCED BY Fisher

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES AND LOCAL GOVERNMENTAL ENTITIES TO CONTRACT FOR THE DESIGN, FINANCING, CONSTRUCTION, OR OPERATION OF REGIONAL CORRECTIONAL FACILITIES; AUTHORIZING THE DEPARTMENT TO GRANT A LOCAL GOVERNMENTAL ENTITY AN OPTION TO PURCHASE A REGIONAL CORRECTIONAL FACILITY OWNED SOLELY BY THE STATE; PROVIDING FOR CONTRACT TERMS AND A TIME LIMIT ON CONTRACTS; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY; AMENDING SECTION 53-21-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill in order to provide guidance to the department of corrections and human services in adopting rules relating to regional correctional facilities. It is the intent of the legislature that in selecting sites for regional correctional facilities, the department should consider the ability of the community to provide rehabilitative services to inmates, the community's willingness and ability to enter into a long-term agreement with the department for a regional correctional facility, and the need for a regional correctional facility in the area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 7] may be known and cited as the "Regional Correctional Facility Act".

NEW SECTION. Section 2. Purpose. It is the purpose of [sections 1 through 7] to provide a method by which the state and local governments can make the most efficient use of their powers and resources by enabling them to cooperate to fulfill their respective responsibilities of providing services and facilities for the incarceration and rehabilitation of criminal offenders at regional correctional facilities. The state and local governments are encouraged to use innovative means in accomplishing this purpose.

1           **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 7], the following definitions  
2 apply:

3           (1) "Department" means the department of corrections and human services.

4           (2) "Interlocal cooperation commission" means a commission established in accordance with Title  
5 7, chapter 11, part 2.

6           (3) "Local governmental entity" means:

7           (a) a local governmental unit;

8           (b) a multijurisdictional service district; or

9           (c) an interlocal cooperation commission.

10          (4) "Multijurisdictional service district" means a district established in accordance with Title 7,  
11 chapter 11, part 11.

12          (5) "Regional correctional facility" means a correctional facility, except the Montana state prison,  
13 the women's correctional center, or the Swan River boot camp, designed, constructed, or operated under  
14 [sections 1 through 7] by a local governmental entity or the department, or both, for the housing of  
15 convicted felons.

16

17           **NEW SECTION. Section 4. Authority to enter into contracts -- terms -- financing.** (1) The  
18 department may contract with one or more local governmental entities for the housing of and provision of  
19 services to inmates sentenced to the department or the department's correctional institutions at a regional  
20 correctional facility designed, financed, constructed, or operated by a local governmental entity, the  
21 department, or both.

22           (2) The contract must be authorized and approved by the governor, the department, and the  
23 governing body of the local governmental entity. The contract must set forth fully the purposes, powers,  
24 rights, and responsibilities of each party to the contract and address necessary and proper matters set forth  
25 in 7-11-105.

26           (3) A contract may include an agreement to jointly design, finance, construct, and operate a  
27 regional correctional facility.

28           (4) The department may not enter into a contract unless the local governmental entity has the legal  
29 authority and the ability to finance its share of the costs under the contract.

30           (5) A regional correctional facility may be constructed on real property owned by the state of

1 Montana or a local governmental entity or jointly owned by both.

2 (6) The proceeds of general obligation bonds authorized to be issued in accordance with Title 17,  
3 chapter 5, part 8, may be used, in whole or in part, to construct a regional correctional facility, whether  
4 or not the facility or any part of it is to be owned and operated by the state. If the proceeds of long-range  
5 building program bonds or other state revenue is to be used in whole or in part to construct a regional  
6 correctional facility that is to be owned and operated by a local governmental entity, the department of  
7 administration is not required to procure the design, engineering, or construction services for the facility.  
8 The contract may provide that the local governmental entity shall procure the services, but must also  
9 provide that the department of administration must be involved in the development and approval of the  
10 plans and specifications for the facility prior to the time the facility is let to bid.

11

12 NEW SECTION. **Section 5. Contract time limit.** A contract entered into under [section 4] may not  
13 exceed a term of 30 years.

14

15 NEW SECTION. **Section 6. Local governmental entity option to purchase facility owned by state.**  
16 If, under a contract entered into under [section 4], the state constructs and owns a regional correctional  
17 facility, the contract may provide an option for the local governmental entity to purchase the facility.

18

19 NEW SECTION. **Section 7. Rulemaking authority.** The department may adopt rules to implement  
20 [sections 1 through 7], including rules for the determination of how sites are to be chosen for regional  
21 correctional facilities. The rules must provide that in selecting a site the department shall consider the need  
22 for a regional correctional facility in the area, the ability and willingness of the local governmental entity  
23 to enter into a long-term contract with the department, and the availability of rehabilitative services to  
24 inmates.

25

26 **Section 8.** Section 53-1-203, MCA, is amended to read:

27 **"53-1-203. Powers and duties of department.** The department shall:

28 (1) adopt rules for the admission, custody, transfer, and release of persons in department programs  
29 except as otherwise provided by law; ~~however~~ However, ~~no such~~ the rules may not amend or alter the  
30 statutory powers and duties of the state board of pardons;

1 (2) subject to the functions of the department of administration, lease or purchase lands for use  
2 by institutions and classify those lands to determine which are of ~~such a~~ character ~~as~~ to be most profitably  
3 used for agricultural purposes, taking into consideration the needs of all institutions for the food products  
4 that can be grown or produced on the lands and the relative value of agricultural programs in the treatment  
5 or rehabilitation of the persons confined in the institutions;

6 (3) (a) contract with private nonprofit Montana corporations to establish and maintain community  
7 based prerelease centers for purposes of preparing inmates of the Montana state prison who are  
8 approaching parole eligibility or discharge for release into the community; ~~the~~ The centers shall provide  
9 a less restrictive environment than the prison while maintaining adequate security; ~~the~~ The centers ~~shall~~  
10 must be operated in coordination with other department correctional programs, including the supervised  
11 release program provided for in Title 46, chapter 23, part 4.

12 (b) ~~Nothing in this~~ This subsection (3) shall does not affect the department's authority to operate  
13 and maintain community based prerelease centers in existence on July 14, 1982.

14 (c) The department and a private, nonprofit Montana corporation may not enter into a contract  
15 under this subsection (3) for a period that exceeds 10 years.

16 (4) utilize the staff and services of other state agencies and units of the Montana university system,  
17 within their respective statutory functions, to carry out its functions under this title;

18 (5) propose programs to the legislature to meet the projected long-range needs of institutions,  
19 including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in  
20 institutions; and

21 (6) encourage the establishment of programs at the local level for the prevention and rehabilitation  
22 of disabilities as they relate to mental illness and chemical dependency and encourage the establishment  
23 of programs at the local and institutional level for the rehabilitation and education of adult felony offenders."

24  
25 NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

26 -END-

## 1 HOUSE BILL NO. 304

2 INTRODUCED BY FISHER

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF CORRECTIONS AND  
5 HUMAN SERVICES AND LOCAL GOVERNMENTAL ENTITIES TO CONTRACT FOR THE DESIGN,  
6 FINANCING, CONSTRUCTION, OR OPERATION OF REGIONAL CORRECTIONAL FACILITIES; AUTHORIZING  
7 THE DEPARTMENT TO GRANT A LOCAL GOVERNMENTAL ENTITY AN OPTION TO PURCHASE A  
8 REGIONAL CORRECTIONAL FACILITY OWNED SOLELY BY THE STATE; PROVIDING FOR CONTRACT  
9 TERMS AND A TIME LIMIT ON CONTRACTS; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY;  
10 AMENDING SECTION 53-21-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11  
12 STATEMENT OF INTENT

13 A statement of intent is required for this bill in order to provide guidance to the department of  
14 corrections and human services in adopting rules relating to regional correctional facilities. It is the intent  
15 of the legislature that in selecting sites for regional correctional facilities, the department should consider  
16 the ability of the community to provide rehabilitative services to inmates, the community's willingness and  
17 ability to enter into a long-term agreement with the department for a regional correctional facility, and the  
18 need for a regional correctional facility in the area.

19

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21

22 NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be known and cited as the  
23 "Regional Correctional Facility Act".

24

25 NEW SECTION. **Section 2. Purpose.** It is the purpose of [sections 1 through 7] to provide a  
26 method by which the state and local governments can make the most efficient use of their powers and  
27 resources by enabling them to cooperate to fulfill their respective responsibilities of providing services and  
28 facilities for the incarceration and rehabilitation of criminal offenders at regional correctional facilities. The  
29 state and local governments are encouraged to use innovative means in accomplishing this purpose.

30

1           **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 7], the following definitions  
2 apply:

3           (1) "Department" means the department of corrections and human services.

4           (2) "Interlocal cooperation commission" means a commission established in accordance with Title  
5 7, chapter 11, part 2.

6           (3) "Local governmental entity" means:

7           (a) a local governmental unit;

8           (b) a multijurisdictional service district; or

9           (c) an interlocal cooperation commission.

10          (4) "Multijurisdictional service district" means a district established in accordance with Title 7,  
11 chapter 11, part 11.

12          (5) "Regional correctional facility" means a correctional facility, except the Montana state prison,  
13 the women's correctional center, or the Swan River boot camp, designed, constructed, or operated under  
14 [sections 1 through 7] by a local governmental entity or the department, or both, for the housing of  
15 convicted felons.

16

17           **NEW SECTION. Section 4. Authority to enter into contracts -- terms -- financing.** (1) The  
18 department may contract with one or more local governmental entities for the housing of and provision of  
19 services to inmates sentenced to the department or the department's correctional institutions at a regional  
20 correctional facility designed, financed, constructed, or operated by a local governmental entity, the  
21 department, or both.

22           (2) The contract must be authorized and approved by the governor, the department, and the  
23 governing body of the local governmental entity. The contract must set forth fully the purposes, powers,  
24 rights, and responsibilities of each party to the contract and address necessary and proper matters set forth  
25 in 7-11-105.

26           (3) A contract may include an agreement to jointly design, finance, construct, and operate a  
27 regional correctional facility.

28           (4) The department may not enter into a contract unless the local governmental entity has the legal  
29 authority and the ability to finance its share of the costs under the contract.

30           (5) A regional correctional facility may be constructed on real property owned by the state of

1 Montana or a local governmental entity or jointly owned by both.

2 (6) The proceeds of LONG-RANGE BUILDING PROGRAM general obligation bonds authorized to  
3 be issued in accordance with Title 17, chapter 5, part 8, may be used, in whole or in part, to construct a  
4 regional correctional facility, whether or not the facility or any part of it is to be owned and operated by  
5 the state. If the proceeds of long-range building program GENERAL OBLIGATION bonds or other state  
6 revenue is to be used in whole or in part to construct a regional correctional facility that is to be owned and  
7 operated by a local governmental entity, the department of administration is not required to procure the  
8 design, engineering, or construction services for the facility. The contract may provide that the local  
9 governmental entity shall procure the services, but must also provide that the department of administration  
10 must be involved in the development and approval of the plans and specifications for the facility prior to  
11 the time the facility is let to bid.

12 (7) THE DEPARTMENT SHALL USE THE PROCEEDS OF LONG-RANGE BUILDING PROGRAM  
13 BONDS AND OTHER STATE REVENUE APPROPRIATED FOR REGIONAL CORRECTIONAL FACILITIES TO  
14 NEGOTIATE WITH LOCAL GOVERNMENT ENTITIES OR PRIVATE PROVIDERS TO OBTAIN THE GREATEST  
15 NUMBER OF BEDS THAT IS CONSISTENT WITH PROGRAM OBJECTIVES FOR THE LEAST COST TO THE  
16 STATE.

17  
18 NEW SECTION. Section 5. Contract time limit. A contract entered into under [section 4] may not  
19 exceed a term of 30 years AND MUST CONTAIN PROVISIONS FOR RENEGOTIATION AFTER 30 YEARS.  
20 THE PROVISIONS OF 18-3-104 AND 18-4-313 THAT LIMIT THE TERM OF A CONTRACT DO NOT APPLY  
21 TO A CONTRACT AUTHORIZED BY [SECTION 4].

22  
23 NEW SECTION. Section 6. Local governmental entity option to purchase facility owned by state.  
24 If, under a contract entered into under [section 4], the state constructs and owns a regional correctional  
25 facility, the contract may provide an option for the local governmental entity to purchase the facility.

26  
27 NEW SECTION. Section 7. Rulemaking authority. The department may adopt rules to implement  
28 [sections 1 through 7], including rules for the determination of how sites are to be chosen for regional  
29 correctional facilities. The rules must provide that in selecting a site the department shall consider the need  
30 for a regional correctional facility in the area, the ability and willingness of the local governmental entity

1 to enter into a long-term contract with the department, and the availability of rehabilitative services to  
 2 inmates.

3

4 **Section 8.** Section 53-1-203, MCA, is amended to read:

5 **"53-1-203. Powers and duties of department.** The department shall:

6 (1) adopt rules for the admission, custody, transfer, and release of persons in department programs  
 7 except as otherwise provided by law; ~~however~~ However, no such the rules may not amend or alter the  
 8 statutory powers and duties of the state board of pardons;

9 (2) subject to the functions of the department of administration, lease or purchase lands for use  
 10 by institutions and classify those lands to determine which are of ~~such a~~ a character ~~as~~ to be most profitably  
 11 used for agricultural purposes, taking into consideration the needs of all institutions for the food products  
 12 that can be grown or produced on the lands and the relative value of agricultural programs in the treatment  
 13 or rehabilitation of the persons confined in the institutions;

14 (3) (a) contract with private nonprofit Montana corporations to establish and maintain community  
 15 based prerelease centers for purposes of preparing inmates of the Montana state prison who are  
 16 approaching parole eligibility or discharge for release into the community; ~~the~~ The centers shall provide  
 17 a less restrictive environment than the prison while maintaining adequate security; ~~the~~ The centers shall  
 18 must be operated in coordination with other department correctional programs, including the supervised  
 19 release program provided for in Title 46, chapter 23, part 4.

20 (b) ~~Nothing in this~~ This subsection (3) shall does not affect the department's authority to operate  
 21 and maintain community based prerelease centers in existence on July 14, 1982.

22 (c) The department and a private, nonprofit Montana corporation may not enter into a contract  
 23 under this subsection (3) for a period that exceeds 10 years. THE PROVISIONS OF 18-3-104 AND  
 24 18-4-313 THAT LIMIT THE TERM OF A CONTRACT DO NOT APPLY TO A CONTRACT AUTHORIZED BY  
 25 THIS SUBSECTION (3).

26 (4) utilize the staff and services of other state agencies and units of the Montana university system,  
 27 within their respective statutory functions, to carry out its functions under this title;

28 (5) propose programs to the legislature to meet the projected long-range needs of institutions,  
 29 including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in  
 30 institutions; and





## 1 HOUSE BILL NO. 304

2 INTRODUCED BY FISHER

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF CORRECTIONS AND  
5 HUMAN SERVICES AND LOCAL GOVERNMENTAL ENTITIES TO CONTRACT FOR THE DESIGN,  
6 FINANCING, CONSTRUCTION, OR OPERATION OF REGIONAL CORRECTIONAL FACILITIES; AUTHORIZING  
7 THE DEPARTMENT TO GRANT A LOCAL GOVERNMENTAL ENTITY AN OPTION TO PURCHASE A  
8 REGIONAL CORRECTIONAL FACILITY OWNED SOLELY BY THE STATE; PROVIDING FOR CONTRACT  
9 TERMS AND A TIME LIMIT ON CONTRACTS; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY;  
10 AMENDING SECTION 53-21-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11  
12 STATEMENT OF INTENT

13 A statement of intent is required for this bill in order to provide guidance to the department of  
14 corrections and human services in adopting rules relating to regional correctional facilities. It is the intent  
15 of the legislature that in selecting sites for regional correctional facilities, the department should consider  
16 the ability of the community to provide rehabilitative services to inmates, the community's willingness and  
17 ability to enter into a long-term agreement with the department for a regional correctional facility, and the  
18 need for a regional correctional facility in the area.

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21  
22 **NEW SECTION. Section 1. Short title.** [Sections 1 through 7] may be known and cited as the  
23 "Regional Correctional Facility Act".

24  
25 **NEW SECTION. Section 2. Purpose.** It is the purpose of [sections 1 through 7] to provide a  
26 method by which the state and local governments can make the most efficient use of their powers and  
27 resources by enabling them to cooperate to fulfill their respective responsibilities of providing services and  
28 facilities for the incarceration and rehabilitation of criminal offenders at regional correctional facilities. The  
29 state and local governments are encouraged to use innovative means in accomplishing this purpose.

1           **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 7], the following definitions  
2 apply:

3           (1) "Department" means the department of corrections and human services.

4           (2) "Interlocal cooperation commission" means a commission established in accordance with Title  
5 7, chapter 11, part 2.

6           (3) "Local governmental entity" means:

7           (a) a local governmental unit;

8           (b) a multijurisdictional service district; or

9           (c) an interlocal cooperation commission.

10          (4) "Multijurisdictional service district" means a district established in accordance with Title 7,  
11 chapter 11, part 11.

12          (5) "Regional correctional facility" means a correctional facility, except the Montana state prison,  
13 the women's correctional center, or the Swan River boot camp, designed, constructed, or operated under  
14 [sections 1 through 7] by a local governmental entity or the department, or both, for the housing of  
15 convicted felons.

16

17           **NEW SECTION. Section 4. Authority to enter into contracts -- terms -- financing.** (1) The  
18 department may contract with one or more local governmental entities for the housing of and provision of  
19 services to inmates sentenced to the department or the department's correctional institutions at a regional  
20 correctional facility designed, financed, constructed, or operated by a local governmental entity, the  
21 department, or both.

22           (2) The contract must be authorized and approved by the governor, the department, and the  
23 governing body of the local governmental entity. The contract must set forth fully the purposes, powers,  
24 rights, and responsibilities of each party to the contract and address necessary and proper matters set forth  
25 in 7-11-105.

26           (3) A contract may include an agreement to jointly design, finance, construct, and operate a  
27 regional correctional facility.

28           (4) The department may not enter into a contract unless the local governmental entity has the legal  
29 authority and the ability to finance its share of the costs under the contract.

30           (5) A regional correctional facility may be constructed on real property owned by the state of

1 Montana or a local governmental entity or jointly owned by both.

2 (6) The proceeds of LONG-RANGE BUILDING PROGRAM general obligation bonds authorized to  
3 be issued in accordance with Title 17, chapter 5, part 8, may be used, in whole or in part, to construct a  
4 regional correctional facility, whether or not the facility or any part of it is to be owned and operated by  
5 the state. If the proceeds of long-range building program GENERAL OBLIGATION bonds or other state  
6 revenue is to be used in whole or in part to construct a regional correctional facility that is to be owned and  
7 operated by a local governmental entity, the department of administration is not required to procure the  
8 design, engineering, or construction services for the facility. The contract may provide that the local  
9 governmental entity shall procure the services, but must also provide that the department of administration  
10 must be involved in the development and approval of the plans and specifications for the facility prior to  
11 the time the facility is let to bid.

12 (7) THE DEPARTMENT SHALL USE THE PROCEEDS OF LONG-RANGE BUILDING PROGRAM  
13 BONDS AND OTHER STATE REVENUE APPROPRIATED FOR REGIONAL CORRECTIONAL FACILITIES TO  
14 NEGOTIATE WITH LOCAL GOVERNMENT ENTITIES OR PRIVATE PROVIDERS TO OBTAIN THE GREATEST  
15 NUMBER OF BEDS THAT IS CONSISTENT WITH PROGRAM OBJECTIVES FOR THE LEAST COST TO THE  
16 STATE.

17

18 NEW SECTION. Section 5. Contract time limit. A contract entered into under [section 4] may not  
19 exceed a term of 30 years AND MUST CONTAIN PROVISIONS FOR RENEGOTIATION AFTER 30 YEARS.  
20 THE PROVISIONS OF 18-3-104 AND 18-4-313 THAT LIMIT THE TERM OF A CONTRACT DO NOT APPLY  
21 TO A CONTRACT AUTHORIZED BY [SECTION 4].

22

23 NEW SECTION. Section 6. Local governmental entity option to purchase facility owned by state.  
24 If, under a contract entered into under [section 4], the state constructs and owns a regional correctional  
25 facility, the contract may provide an option for the local governmental entity to purchase the facility.

26

27 NEW SECTION. Section 7. Rulemaking authority. The department may adopt rules to implement  
28 [sections 1 through 7], including rules for the determination of how sites are to be chosen for regional  
29 correctional facilities. The rules must provide that in selecting a site the department shall consider the need  
30 for a regional correctional facility in the area, the ability and willingness of the local governmental entity

1 to enter into a long-term contract with the department, and the availability of rehabilitative services to  
2 inmates.

3

4 **Section 8.** Section 53-1-203, MCA, is amended to read:

5 **"53-1-203. Powers and duties of department.** The department shall:

6 (1) adopt rules for the admission, custody, transfer, and release of persons in department programs  
7 except as otherwise provided by law; ~~however~~ However, ~~no such~~ the rules may not amend or alter the  
8 statutory powers and duties of the state board of pardons;

9 (2) subject to the functions of the department of administration, lease or purchase lands for use  
10 by institutions and classify those lands to determine which are of ~~such a~~ a character ~~as~~ to be most profitably  
11 used for agricultural purposes, taking into consideration the needs of all institutions for the food products  
12 that can be grown or produced on the lands and the relative value of agricultural programs in the treatment  
13 or rehabilitation of the persons confined in the institutions;

14 (3) (a) contract with private nonprofit Montana corporations to establish and maintain community  
15 based prerelease centers for purposes of preparing inmates of the Montana state prison who are  
16 approaching parole eligibility or discharge for release into the community; ~~the~~ The centers shall provide  
17 a less restrictive environment than the prison while maintaining adequate security; ~~the~~ The centers ~~shall~~  
18 must be operated in coordination with other department correctional programs, including the supervised  
19 release program provided for in Title 46, chapter 23, part 4.

20 (b) ~~Nothing in this~~ This subsection (3) shall does not affect the department's authority to operate  
21 and maintain community based prerelease centers in existence on July 14, 1982.

22 (c) The department and a private, nonprofit Montana corporation may not enter into a contract  
23 under this subsection (3) for a period that exceeds 10 years. THE PROVISIONS OF 18-3-104 AND  
24 18-4-313 THAT LIMIT THE TERM OF A CONTRACT DO NOT APPLY TO A CONTRACT AUTHORIZED BY  
25 THIS SUBSECTION (3).

26 (4) utilize the staff and services of other state agencies and units of the Montana university system,  
27 within their respective statutory functions, to carry out its functions under this title;

28 (5) propose programs to the legislature to meet the projected long-range needs of institutions,  
29 including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in  
30 institutions; and

1           (6) encourage the establishment of programs at the local level for the prevention and rehabilitation  
2 of disabilities as they relate to mental illness and chemical dependency and encourage the establishment  
3 of programs at the local and institutional level for the rehabilitation and education of adult felony offenders."

4

5           NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

6

-END-

## 1 HOUSE BILL NO. 304

2 INTRODUCED BY FISHER

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF CORRECTIONS AND  
5 HUMAN SERVICES AND LOCAL GOVERNMENTAL ENTITIES TO CONTRACT FOR THE DESIGN,  
6 FINANCING, CONSTRUCTION, OR OPERATION OF REGIONAL CORRECTIONAL FACILITIES; AUTHORIZING  
7 THE DEPARTMENT TO GRANT A LOCAL GOVERNMENTAL ENTITY AN OPTION TO PURCHASE A  
8 REGIONAL CORRECTIONAL FACILITY OWNED SOLELY BY THE STATE; PROVIDING FOR CONTRACT  
9 TERMS AND A TIME LIMIT ON CONTRACTS; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY;  
10 AMENDING SECTION 53-21-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11  
12 STATEMENT OF INTENT

13 A statement of intent is required for this bill in order to provide guidance to the department of  
14 corrections and human services in adopting rules relating to regional correctional facilities. It is the intent  
15 of the legislature that in selecting sites for regional correctional facilities, the department should consider  
16 the ability of the community to provide rehabilitative services to inmates, the community's willingness and  
17 ability to enter into a long-term agreement with the department for a regional correctional facility, and the  
18 need for a regional correctional facility in the area.

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21  
22 NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be known and cited as the  
23 "Regional Correctional Facility Act".

24  
25 NEW SECTION. **Section 2. Purpose.** It is the purpose of [sections 1 through 7] to provide a  
26 method by which the state and local governments can make the most efficient use of their powers and  
27 resources by enabling them to cooperate to fulfill their respective responsibilities of providing services and  
28 facilities for the incarceration and rehabilitation of criminal offenders at regional correctional facilities. The  
29 state and local governments are encouraged to use innovative means in accomplishing this purpose.

30

1           **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 7], the following definitions  
2 apply:

3           (1) "Department" means the department of corrections and human services.

4           (2) "Interlocal cooperation commission" means a commission established in accordance with Title  
5 7, chapter 11, part 2.

6           (3) "Local governmental entity" means:

7           (a) a local governmental unit;

8           (b) a multijurisdictional service district; or

9           (c) an interlocal cooperation commission.

10          (4) "Multijurisdictional service district" means a district established in accordance with Title 7,  
11 chapter 11, part 11.

12          (5) "Regional correctional facility" means a correctional facility, except the Montana state prison,  
13 the women's correctional center, or the Swan River boot camp, designed, constructed, or operated under  
14 [sections 1 through 7] by a local governmental entity or the department, or both, for the housing of  
15 convicted felons.

16

17           **NEW SECTION. Section 4. Authority to enter into contracts -- terms -- financing.** (1) The  
18 department may contract with one or more local governmental entities for the housing of and provision of  
19 services to inmates sentenced to the department or the department's correctional institutions at a regional  
20 correctional facility designed, financed, constructed, or operated by a local governmental entity, the  
21 department, or both.

22           (2) The contract must be authorized and approved by the governor, the department, and the  
23 governing body of the local governmental entity. The contract must set forth fully the purposes, powers,  
24 rights, and responsibilities of each party to the contract and address necessary and proper matters set forth  
25 in 7-11-105.

26           (3) A contract may include an agreement to jointly design, finance, construct, and operate a  
27 regional correctional facility.

28           (4) The department may not enter into a contract unless the local governmental entity has the legal  
29 authority and the ability to finance its share of the costs under the contract.

30           (5) A regional correctional facility may be constructed on real property owned by the state of



1 Montana or a local governmental entity or jointly owned by both.

2 (6) The proceeds of LONG-RANGE BUILDING PROGRAM general obligation bonds authorized to  
3 be issued in accordance with Title 17, chapter 5, part 8, may be used, in whole or in part, to construct a  
4 regional correctional facility, whether or not the facility or any part of it is to be owned and operated by  
5 the state. If the proceeds of long-range building program GENERAL OBLIGATION bonds or other state  
6 revenue is to be used in whole or in part to construct a regional correctional facility that is to be owned and  
7 operated by a local governmental entity, the department of administration is not required to procure the  
8 design, engineering, or construction services for the facility. The contract may provide that the local  
9 governmental entity shall procure the services, but must also provide that the department of administration  
10 must be involved in the development and approval of the plans and specifications for the facility prior to  
11 the time the facility is let to bid.

12 (7) THE DEPARTMENT SHALL USE THE PROCEEDS OF LONG-RANGE BUILDING PROGRAM  
13 BONDS AND OTHER STATE REVENUE APPROPRIATED FOR REGIONAL CORRECTIONAL FACILITIES TO  
14 NEGOTIATE WITH LOCAL GOVERNMENT ENTITIES OR PRIVATE PROVIDERS TO OBTAIN THE GREATEST  
15 NUMBER OF BEDS THAT IS CONSISTENT WITH PROGRAM OBJECTIVES FOR THE LEAST COST TO THE  
16 STATE.

17  
18 NEW SECTION. Section 5. Contract time limit. A contract entered into under [section 4] may not  
19 exceed a term of 30 years AND MUST CONTAIN PROVISIONS FOR RENEGOTIATION AFTER 30 YEARS.  
20 THE PROVISIONS OF 18-3-104 AND 18-4-313 THAT LIMIT THE TERM OF A CONTRACT DO NOT APPLY  
21 TO A CONTRACT AUTHORIZED BY [SECTION 4].

22  
23 NEW SECTION. Section 6. Local governmental entity option to purchase facility owned by state.  
24 If, under a contract entered into under [section 4], the state constructs and owns a regional correctional  
25 facility, the contract may provide an option for the local governmental entity to purchase the facility.

26  
27 NEW SECTION. Section 7. Rulemaking authority. The department may adopt rules to implement  
28 [sections 1 through 7], including rules for the determination of how sites are to be chosen for regional  
29 correctional facilities. The rules must provide that in selecting a site the department shall consider the need  
30 for a regional correctional facility in the area, the ability and willingness of the local governmental entity

1 to enter into a long-term contract with the department, and the availability of rehabilitative services to  
 2 inmates.

3

4 **Section 8.** Section 53-1-203, MCA, is amended to read:

5 **"53-1-203. Powers and duties of department.** The department shall:

6 (1) adopt rules for the admission, custody, transfer, and release of persons in department programs  
 7 except as otherwise provided by law; ~~however~~ However, ~~no such~~ the rules may not amend or alter the  
 8 statutory powers and duties of the state board of pardons;

9 (2) subject to the functions of the department of administration, lease or purchase lands for use  
 10 by institutions and classify those lands to determine which are of ~~such a~~ a character ~~as~~ to be most profitably  
 11 used for agricultural purposes, taking into consideration the needs of all institutions for the food products  
 12 that can be grown or produced on the lands and the relative value of agricultural programs in the treatment  
 13 or rehabilitation of the persons confined in the institutions;

14 (3) (a) contract with private nonprofit Montana corporations to establish and maintain community  
 15 based prerelease centers for purposes of preparing inmates of the Montana state prison who are  
 16 approaching parole eligibility or discharge for release into the community; ~~the~~ The centers shall provide  
 17 a less restrictive environment than the prison while maintaining adequate security; ~~the~~ The centers ~~shall~~  
 18 must be operated in coordination with other department correctional programs, including the supervised  
 19 release program provided for in Title 46, chapter 23, part 4.

20 (b) ~~Nothing in this~~ This subsection (3) ~~shall~~ does not affect the department's authority to operate  
 21 and maintain community based prerelease centers in existence on July 14, 1982.

22 (c) The department and a private, nonprofit Montana corporation may not enter into a contract  
 23 under this subsection (3) for a period that exceeds 10 years. THE PROVISIONS OF 18-3-104 AND  
 24 18-4-313 THAT LIMIT THE TERM OF A CONTRACT DO NOT APPLY TO A CONTRACT AUTHORIZED BY  
 25 THIS SUBSECTION (3).

26 (4) utilize the staff and services of other state agencies and units of the Montana university system,  
 27 within their respective statutory functions, to carry out its functions under this title;

28 (5) propose programs to the legislature to meet the projected long-range needs of institutions,  
 29 including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in  
 30 institutions; and

